

## **DEQ Seeking Public Comment on Proposed State Consent Judgment Regarding Portland Harbor Superfund Site**

**Notice issued:** July 1, 2006

**Written comments due:** August 1, 2006, 5:00 p.m.

**Verbal comments at public information meeting:** Tuesday, July 18, 2006; 6:00 p.m.

**Public meeting location:** City of Portland Bureau of Environmental Services Water Pollution Control Lab, Smith Room, 6543 N. Burlington Ave., Portland, OR 97203

### **Where can I review the document?**

The proposed state consent judgment regarding the Portland Harbor Superfund Site is available on DEQ's web site at <http://www.deq.state.or.us/nwr/PortlandHarbor/ph.htm>; scroll down to "Recent Announcements." You may also review the document at DEQ's Northwest Region Office, located at 2020 SW 4<sup>th</sup> Ave., fourth floor, Portland, Oregon.

### **Where can I send comments and get more information?**

Comments may be submitted to Jim Anderson, Portland Harbor Project Manager, at [anderson.jim@deq.state.or.us](mailto:anderson.jim@deq.state.or.us) or at DEQ, 2020 SW 4<sup>th</sup> Ave., Suite 400, Portland, OR 97201. For more information, please contact Jim Anderson at 503-229-6825, or Mikell O'Mealy, Portland Harbor Project Outreach Coordinator, at [omealy.mikell@deq.state.or.us](mailto:omealy.mikell@deq.state.or.us) or 503-229-6590.

### **Where is the site located?**

The Portland Harbor Superfund site is federally listed as being located on the lower Willamette River in Portland between River Miles 3.5 and 9.2, while studies are currently being conducted between River Miles 2 and 11. The final boundaries of the site will be established by the U.S. Environmental Protection Agency ("EPA") when it selects a final cleanup remedy for the site.

### **What will happen at the public information meeting?**

DEQ will provide information, answer questions, and receive comments about the proposed consent judgment.

### **Background**

Investigations of sediments and water quality in the lower Willamette River within the Portland Harbor area have revealed a broad range of hazardous substance contamination. In response to this contamination, DEQ undertook a number of measures for the protection of public health and the environment, including but not limited to site discovery and assessment to locate sources of the contamination, development of a Portland Harbor Sediment Management Plan and Sediment Investigation Work Plan to guide investigation of sediment contamination, consultation and negotiation with potentially responsible parties ("PRPs") regarding the design and implementation of the plans, coordination with federal agencies and tribes having interests in the Willamette

River, and the entry of cooperative agreements and public outreach necessary to these efforts. DEQ undertook these measures pursuant to its authorities under the state environmental cleanup law, ORS 465.200 *et seq.*

On December 1, 2000, EPA placed the Portland Harbor area on the National Priority List pursuant to the federal Superfund law. DEQ and EPA have agreed to share responsibility for investigation and cleanup of the Portland Harbor Superfund Site. DEQ is responsible for overseeing the investigation and control of upland contaminant sources to the harbor. EPA is responsible for overseeing the investigation and cleanup of in-water contamination. Each agency also acts as a support agency to the other agency's efforts. EPA is currently administering the performance of an in-water remedial investigation and feasibility study ("RI/FS"), under an Administrative Order on Consent issued by EPA on September 28, 2001. Ten PRPs are signatories to the consent order with EPA. Those consent order parties, along with four other PRPs, have formed what is called the Lower Willamette Group ("LWG") for the purpose of jointly performing or financing the in-water RI/FS. EPA has requested that other PRPs become cooperating parties by signing the consent order, and is encouraging the PRPs to participate in the LWG. The LWG has requested that DEQ provide a similar opportunity to LWG members and other PRPs to enter a state settlement recognizing the in-water RI/FS work performed under the EPA consent order. DEQ is proposing to enter such a settlement.

### **What is proposed?**

The settlement proposed by DEQ is in the form of a consent judgment that would be entered in state circuit court pursuant to ORS 465.325. The consent judgment would require PRPs to pay an amount in satisfaction of outstanding DEQ remedial action costs, reimburse DEQ's support agency costs under the RI/FS consent order administered by EPA, and perform or help finance the in-water RI/FS under the EPA consent order. In return, DEQ would provide a covenant-not-to-sue, right of contribution, and contribution protection regarding the same matters. The covenant-not-to-sue would apply to claims under state laws found at ORS Chapters 465, 466, and 468B, and under the federal Superfund law.

The consent judgment would *not* apply to the following: ongoing environmental investigations and source control work at specific upland facilities pursuant to DEQ agreement and orders; EPA's selection and implementation of a final cleanup remedy for the in-water contamination; other possible PRP liabilities at Portland Harbor such as natural resource damages.

DEQ proposes to enter this consent judgment with the following parties: Arkema Inc.; Bayer CropScience, Inc.; BNSF Railway Company; Chevron U.S.A. Inc., a Pennsylvania corporation; City of Portland; ConocoPhillips Company; Gunderson LLC; Kinder Morgan; NW Natural; Oregon Steel Mills, Inc.; Port of Portland; Siltronic Corporation; Time Oil Co.; and Union Pacific Railroad Company.

### **What happens next?**

DEQ will review and consider all comments received during the comment period. If DEQ then determines to enter the consent judgment, the settlement will be executed by

the parties and filed with the Multnomah County Circuit Court. The court must approve the consent judgment for it to take effect.

**What are DEQ's responsibilities?**

DEQ is the state regulatory agency responsible for protecting and enhancing Oregon's water and air quality, for cleaning up hazardous substances contamination in the environment, and for managing the proper disposal of hazardous and solid wastes.

**Accessibility Information**

If you need special physical, language or other accommodations to review the proposed Consent Judgment, provide comments or attend the public information meeting, please contact Mikell O'Mealy at 503-229-6590 or [omealy.mikell@deq.state.or.us](mailto:omealy.mikell@deq.state.or.us), or Jim Anderson at 503-229-6825 or [anderson.jim@deq.state.or.us](mailto:anderson.jim@deq.state.or.us).